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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

UNITED STATES OF AMERICA : DOCKET NO. 2:09 CR 00094-004
VS. : JUDGE MINALDI
CALVIN FLOYD WOODS : MAGISTRATE JUDGE KAY

MEMORANDUM RULING

Presently before the court are the defendant's objections to the Presentence Report ("PSR") prepared by the Probation Department.

The defendant objects to the facts included in ¶¶ 13-22 of the PSR, stating that these facts were supplied by unreliable witnesses and are not true. Woods requests that these paragraphs be stricken from the report.

The Presentence Report ("PSR") generally bears sufficient indicia of reliability to be considered as evidence by the court in resolving factual disputes. *U.S. v. Valencia*, 44 F.3d 269 (5th Cir.1995); *See United States v. Slaughter*, 238 F.3d 580, 585 (5th Cir.2000) ("For sentencing purposes, the district court may consider any relevant evidence, including uncorroborated hearsay statements, if the information has a 'sufficient indicia of reliability to support its probable accuracy.'"); *U.S. v. Rangel*, 149 Fed.App'x. 254, 257 (5th Cir. 2005). It is proper for the district court to rely upon the PSR's construction of evidence to resolve a factual dispute, rather than relying on the defendant's version of the facts. *U.S. v. Montoya-Ortiz*, 7 F.3d 1171 (5th Cir. 1993), citing *U.S. v. Robins*, 978 F.2d 881, 889 (5th Cir. 1992).

The information contained in ¶¶ 13-22 of the PSR was obtained from interviews documented in an Offense Report prepared by the Lake Charles Police Department and the Combined Anti-Drug Team for Calcasieu Parish. As noted by Probation, interviews from eight (8) individuals corroborated each others' statements. The burden is on the defendant to present *evidence* to refute the facts stated in the PSR. Absent the introduction of such evidence, this objection IS OVERRULED.

Lake Charles, Louisiana, this 2 ^{Marele} day of January, 2010.


PATRICIA MINALDI
UNITED STATES DISTRICT JUDGE